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MONTANA LEGISLATIVE HISTORY

Chapter 435 1989

Bill H 504 S _____ Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) H 2/14 ___C

_____ ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Judiciary

Hearing Date(s) H 3/20 ___C

_____ ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

2/13 FISCAL NOTE PRINTED
3/02 SPONSOR FISCAL NOTE REQUESTED
3/03 SPONSOR FISCAL NOTE RECEIVED
3/04 SPONSOR FISCAL NOTE PRINTED
3/14 HEARING
3/16 TABLED IN COMMITTEE
4/06 MOTION FAILED TO TAKE FROM COMMITTEE 53 46

HB 501 INTRODUCED BY STICKNEY, ET AL.
ELIMINATE COUNTY CONTRIBUTION TO DEPARTMENT OF FAMILY SERVICES

1/30 INTRODUCED
1/31 REFERRED TO LOCAL GOVERNMENT
2/06 FISCAL NOTE REQUESTED
2/08 FISCAL NOTE RECEIVED
2/09 HEARING
2/11 FISCAL NOTE PRINTED
2/15 COMMITTEE REPORT--BILL PASSED AS AMENDED
2/18 2ND READING DO PASS MOTION FAILED 37 54

HB 502 INTRODUCED BY WYATT, ET AL.
REQUIRE INSURERS TO HONOR AGENT-OF-RECORD LETTERS

1/30 INTRODUCED
1/31 REFERRED TO STATE ADMINISTRATION
2/09 HEARING
2/15 TABLED IN COMMITTEE

HB 503 INTRODUCED BY IVERSON
PROVIDE COAL TAX CREDIT FOR INVESTMENT IN QUALIFIED MONTANA CAPITAL COMPANY

1/31 INTRODUCED
2/01 REFERRED TO TAXATION
2/01 FISCAL NOTE REQUESTED
2/07 FISCAL NOTE RECEIVED
3/07 SPONSOR FISCAL NOTE REQUESTED
3/08 SPONSOR FISCAL NOTE RECEIVED
3/09 HEARING
3/09 FISCAL NOTE PRINTED
3/09 SPONSOR FISCAL NOTE PRINTED
3/16 TABLED IN COMMITTEE

HB 504 INTRODUCED BY DAILY
CLARIFY THAT HOMICIDE PROSECUTION MAY BE COMMENCED AT ANY TIME

1/31 INTRODUCED
2/01 REFERRED TO JUDICIARY
2/14 HEARING
2/14 COMMITTEE REPORT--BILL PASSED
2/18 2ND READING PASSED 93 2
2/21 3RD READING PASSED 97 0

TRANSMITTED TO SENATE
2/28 REFERRED TO JUDICIARY
3/20 HEARING
3/20 COMMITTEE REPORT--BILL CONCURRED
3/21 2ND READING CONCURRED 49 0

3/23	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/29	SIGNED BY SPEAKER		
3/29	SIGNED BY PRESIDENT		
3/30	TRANSMITTED TO GOVERNOR		
4/04	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 435 EFFECTIVE DATE: 4/04/89		

HB 505 INTRODUCED BY SCHYE, ET AL.
ALLOW COUNTY MUSEUM PROGRAM TO HAVE FACILITY FOR VISUAL AND PERFORMING ARTS

1/31	INTRODUCED		
2/01	REFERRED TO LOCAL GOVERNMENT		
2/09	HEARING		
2/10	COMMITTEE REPORT--BILL PASSED		
2/13	2ND READING PASSED	94	4
2/15	3RD READING PASSED	92	4
	TRANSMITTED TO SENATE		
2/16	REFERRED TO LOCAL GOVERNMENT		
3/09	HEARING		
3/10	COMMITTEE REPORT--BILL CONCURRED		
3/13	2ND READING CONCURRED	49	0
3/15	3RD READING CONCURRED	46	1
	RETURNED TO HOUSE		
3/21	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/22	TRANSMITTED TO GOVERNOR		
3/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 313 EFFECTIVE DATE: 10/01/89		

HB 506 INTRODUCED BY DARKO, ET AL.
REQUIRE FLASHING LIGHT ON ROAD MAINTENANCE EQUIPMENT

1/31	INTRODUCED		
2/01	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/01	FISCAL NOTE REQUESTED		
2/06	FISCAL NOTE RECEIVED		
2/07	HEARING		
2/08	FISCAL NOTE PRINTED		
	DIED IN COMMITTEE		

HB 507 INTRODUCED BY CONNELLY
REVISE LAWS GOVERNING ADMINISTRATION OF CULTURAL AND AESTHETIC ARTS PROJECTS GRANTS PROGRAM
BY REQUEST OF LONG-RANGE PLANNING COMMITTEE

1/31	INTRODUCED		
2/01	REFERRED TO APPROPRIATIONS		
3/15	HEARING		
3/17	COMMITTEE REPORT--BILL PASSED AS AMENDED		
3/20	2ND READING PASSED AS AMENDED	87	10
3/22	3RD READING PASSED	81	16
	TRANSMITTED TO SENATE		
3/22	REFERRED TO FINANCE & CLAIMS		
4/07	HEARING		

BILL NO. 504

INTRODUCED BY House Davis

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT A PROSECUTION FOR DELIBERATE, MITIGATED, OR NEGLIGENT HOMICIDE MAY BE COMMENCED AT ANY TIME; AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"**45-1-205. General time limitations.** (1) (a) A prosecution for ~~criminal~~ deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution under 45-5-502 through 45-5-505, 45-5-507, or 45-5-625 may be commenced within 5 years after the offense was committed if the victim was less than 16 years old at the time the offense occurred.

(2) Except as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The period prescribed in subsection (2) is

extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination thereof;

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) shall be extended in a prosecution for unlawful use of a computer, and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense

INTRODUCED BILL
HB 504

is committed.

(6) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

NEW SECTION. **Section 2.** **Effective date.** [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dave Brown, on February 14, 1989, at 8:08 a.m.

ROLL CALL

Members Present: All members were present.

Members Excused: None.

Members Absent: None.

Staff Present: Julie Emge, Secretary
John MacMaster, Legislative Council

Announcements/Discussion: Rep. Brown announced the committee would hear HB 499, HB 528, HB 534, HB 548, HB 473, and HB 504.

HEARING ON HOUSE BILL 504

Presentation and Opening Statement by Sponsor:

Rep. Daily opened the hearing on HB 504 saying this bill was requested by Bob McCarthy, County Attorney in Butte.

Testifying Proponents and Who They Represent:

John Connor, Department of Justice, Montana County Attorney's Association

Proponent Testimony:

John Connor rose in support of HB 504. This bill was requested by the Montana County Attorney's Association to correct a problem that exists with respect to the statute of limitations on homicide. The problem is fairly basic. Before the 1987 session there were three types of homicides: 1.) Deliberate, 2.) Mitigated, and 3.) Negligent. They were defined in total as criminal homicide. In 1987 there were some changes made in the homicide statutes which essentially served to clean up the language of the three types of homicide especially with respect to felony murder under deliberate homicide. In the course of doing that, the definition of criminal homicide was repealed because it didn't appear necessary to define homicide as criminal homicide which is deliberate, mitigated and negligent. The problem is that the statute of limitations language was not

corrected so under the criminal statute of limitations there is a five year statute of limitations on felonies except for homicide for which there is no statute of limitations. The statute of limitations language says that the prosecution for criminal homicide may be commenced at any time. Now there is no longer criminal homicide. In theory, it could be argued that there is a five year statute of limitations as it relates to deliberate, mitigated or negligent. All this bill proposes to do is delete this language of criminal homicide and substitute in its place the terms deliberate, mitigated or negligent.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members:

No questions were asked.

Closing by Sponsor: Rep. Daily closed.

DISPOSITION OF HOUSE BILL 504

Motion: Rep. Daily moved HB 504 DO PASS. Rep. Addy seconded the motion.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: A vote was taken on the motion and CARRIED unanimously.

HEARING ON HOUSE BILL 473

Presentation and Opening Statement by Sponsor:

Rep. Bradley introduced HB 473 saying the bill does three things. First, it would end the practice of placing voluntarily and civilly committed persons in the forensic unit with criminal offenders and prisoners. Secondly, the bill requires restrictions of movement on hospital grounds to be based on individual assessments. That is, each individual, if he is restricted in his movement would have to have the rationale contained in an individual assessment of why those restrictions are being established. This continues with a list of patient rights adding that voluntarily and civilly committed patients have a right not

DAILY ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date FEB. 14, 1989

NAME	PRESENT	ABSENT	EXCUSED
REP. KELLY ADDY, VICE-CHAIRMAN	X		
REP. OLE AAFEDT	X		
REP. WILLIAM BOHARSKI	X		
REP. VIVIAN BROOKE	X		
REP. FRITZ DAILY	X		
REP. PAULA DARKO	X		
REP. RALPH EUDAILY	X		
REP. BUDD GOULD	X		
REP. TOM HANNAH	X		
REP. ROGER KNAPP	X		
REP. MARY McDONOUGH	X		
REP. JOHN MERCER	X		
REP. LINDA NELSON	X		
REP. JIM RICE	X		
REP. JESSICA STICKNEY	X		
REP. BILL STRIZICH	X		
REP. DIANA WYATT	X		
REP. DAVE BROWN, CHAIRMAN	X		

STANDING COMMITTEE REPORT

February 14, 1989

Mr. Speaker: We, the committee on Judiciary report that House Bill 504 (first reading copy -- white) do pass .

Signed: _____
Dave Brown, Chairman

VISITORS' REGISTER

JUDICIARY COMMITTEE

BILL NO. HOUSE BILL 504 DATE FEB. 14, 1989

SPONSOR REP. DAILY

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
John Connor	Dept. of Justice Mt. County Attys Assn	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

INTRODUCED BY House Dahl BILL NO. 504

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT A PROSECUTION FOR DELIBERATE, MITIGATED, OR NEGLIGENT HOMICIDE MAY BE COMMENCED AT ANY TIME; AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 45-1-205, MCA, is amended to read:

"**45-1-205. General time limitations.** (1) (a) A prosecution for ~~criminal~~ deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) A prosecution under 45-5-502 through 45-5-505, 45-5-507, or 45-5-625 may be commenced within 5 years after the offense was committed if the victim was less than 16 years old at the time the offense occurred.

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(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

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extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

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(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) shall be extended in a prosecution for unlawful use of a computer, and prosecution shall be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not himself a party to the offense or, in the absence of such discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense

THIRD READING
HB 504

is committed.

(6) A prosecution is commenced either when an indictment is found or an information or complaint is filed."

NEW SECTION. **Section 2.** Effective date. [This act] is effective on passage and approval.

-End-

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on March 20, 1989, at 10:00 a.m. in Room 325.

ROLL CALL

Members Present: Chairman Bruce Crippen, V. Chairman Al Bishop, Senators Tom Beck, Bob Brown, Mike Halligan, Loren Jenkins, Joe Mazurek, R. J. Pinsoneault and Bill Yellowtail.

Members Excused: Senator John Harp

Members Absent: None

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: None

HEARING ON HOUSE BILL 534

Presentation and Opening Statement by Sponsor:

Representative Chuck Swysgood of Dillon, House District 73, opened the hearing. He said the bill was an amendment to the interstate compact on juveniles. The reason the bill was requested was that, during proceedings on juveniles, a juvenile cannot be extradited who had not been adjudicated and "skips" between the time of adjudication and the time of hearing. This causes problems for county attorneys because, if they wanted to have the youth brought back, they had to have him declared an adult and go through the procedures of adult extradition laws. Then, the youth had to be tried under adult laws, according to Rep. Swysgood. Thirty-eight other states have enacted this law which extradites youths in an easier way and allows them to be tried as youths once they're back in the state.

List of Testifying Proponents and What Group they Represent:
None

List of Testifying Opponents and What Group They Represent:

George Bennett, Montana Bankers Association
Chip Erdmann, Montana Savings and Loan Institutions

Testimony:

George Bennett opposed the bill, even though Rep. Mercer had request its tabling. He said the Chunkapura Decision of 1987 was a critical issue to Montana and reversed some 25 years of judicial practice. The Small Tract Financing Act was passed in 1963 and provided 2 options on foreclosures of trust indentures: By advertisement and sale or the holder could go through the normal judicial proceedings resulting in a decree of foreclosure by the state. The supreme court turned those procedures, limiting them to simple, family, residential properties. It left unanswered a lot of questions which are answered in SB 313. He urged support of that bill.

Chip Erdmann supported the tabling of the bill.

Questions From Committee Members: None.

Closing by Sponsor: Rep. Mercer closed.

DISPOSITION OF HOUSE BILL 511

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Mazurek MOVED that House Bill 511 BE TABLED.

HEARING ON HOUSE BILL 504

Presentation and Opening Statement by Sponsor:
Representative Fritz Daily of Butte, House District 69, opened the hearing. He said the bill had been requested by the Montana County Attorneys Association. He said that in 1987, the legislature passed a bill that changed the statute of limitations. This bill

would provide that homicide prosecution may be started at any time.

List of Testifying Proponents and What Group they Represent:

John Connor Montana County Attorneys Association.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

John Connor said this bill fell into the category of a housekeeping bill. He urged support.

Questions From Committee Members: None

Closing by Sponsor: Rep. Daily closed the hearing.

DISPOSITION OF HOUSE BILL 504

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Brown MOVED that House Bill 504 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY.

DISCUSSION OF HOUSE BILL 495

Discussion: Chairman Crippen said that, though House Bill 495 had been passed out of committee, several people had shown concern with the bill.

Senator Mazurek said it had been called to his attention that, because the bill could include youths 18 years old, it would include many high school seniors. Senator Crippen said that Representative Strizich had commented that if it included 18-year-old youths, it would not be passed in the House. No motion was made to reconsider the bill.

DISPOSITION OF HOUSE BILL 425

Discussion: Valencia Lane explained the amendments: #1 amended the title, #2 requested by Boyd Andrews Center

ROLL CALL

JUDICIARY COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3-20-89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP			✓
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

March 20, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration HB 504 (third reading copy -- blue), respectfully report that HB 504 be concurred in.

Sponsor: Daily (Beck)

BE CONCURRED IN

Signed: _____

Bruce D. Crippen, Chairman

SCRHB504.320

DATE 3-20-89

COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Oppose
GEORGE T. BENNETT	MONT. BKRS ASSN	HB511		X
Wally Jewell	MT. MAG. ASSOC	HB649		X
Charles Brooks	MT. Retail Assoc	HB649	X	
Tom Hopgood	MT. Assoc. Realtors	HB511	✓	
Don Ingels	Mt Chamber of Commerce	HB649	X	
Bill Kearns	State Bank of Townsend	HB649	✓	
Terry Odegard	Farmers Union	511	✓	
Chip Erdmann	Mt Independent Savings Mt	511		X
John Connor	Dept of Justice Mt County Attys Assn	HB504	✓	
John Connor	"	HB568	✓	
Gordon Morris	MACo	HB568	✓	
Jelene Loendorf	Mt. Consumer Finance Assn	HB511	amend	
Bob Mullen	DFS	HB568	✓	
Bill Leary	MT Bankers	HB649	✓	
Steve Nelson	Crime Control	HB568	✓	
Steve Nelson	Crime Control	HB504		
Dave Demmons	Youth Court Prob.	HB568	✓	

HOUSE BILL NO. 504

INTRODUCED BY DAILY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT A PROSECUTION FOR DELIBERATE, MITIGATED, OR NEGLIGENT HOMICIDE MAY BE COMMENCED AT ANY TIME; AMENDING SECTION 45-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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NEW SECTION. **Section 2.** **Effective date.** [This act] is effective on passage and approval.

-End-